IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

APPEAL FROM ORDER NO.820 OF 2004
IN
NOTICE OF MOTION NO.3183 OF 2002
IN
L.C. SUIT NO.4401 OF 2002

Ms.Saraswati Jayaram Chaudhary ... Appellant

V/s.

The Municipal Corporation of
Greater Mumbai ... Respondent

Mr.J.J. Shah for Appellant
Mr.J. Xavier for Respondent

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **OCTOBER 7, 2004**

P.C.:

. The order impugned refuses to grant injunction in favour of the plaintiff in respect of the notices issued to her under sections 351 and 488 of the Bombay Municipal Corporation Act. According to the Plaintiff, the structure in respect of which the notices have been issued has been in existence prior to 1961-62 and, therefore, cannot be termed as an illegal structure. The trial Court has considered the fact that the assessment bills sought to be relied on by the plaintiff are dated 1.4.2002. The structure assessed as PN-20-0940-00-4 shows that it is in existence prior to 1961-62 and was assessed accordingly. Another

assessment bill relied on by the Plaintiff, dated 1.4.2002 is in respect of a structure assessed as PN-20-1047-05-2. The trial Court has considered these bills and has rightly held that the bills relate to two different structures. In fact the assessee's name is different in both bills. I see no reason to interfere with the impugned order. The learned Advocate for the plaintiff urged that the matter be sent back to the Respondent Corporation as the assessment bill showing that the suit structure was assessed prior to 1962-63 had not been produced by the Plaintiff before the Assistant Commissioner. I see no reason to adopt such a procedure as the suit structure and the structure in the bill which indicate that the assessment was prior to 1961-62 are two different structures. Hence, Appeal from Order dismissed.

3. In view of the dismissal of the Appeal from Order, Civil Application No.1122 of 2004 does not survive and the same is disposed of accordingly.

4. Mr.Shah, on behalf of the appellant asks for stay of this order. Stay refused.